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PATENT TRADEMARK OFFICE

Customer Number 22852  
Attorney Docket No. 0964,751

TECHNICAL CENTER 1600/2900

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jean MONDET et al.

Application No.: 09/964,751

Filed: September 28, 2001

For: COSMETIC COMPOSITIONS  
COMPRISING AT LEAST ONE CONTINUOUS  
LIQUID FATTY PHASE STRUCTURED WITH  
POLYURETHANES, POLYURETHANEUREAS,  
AND POLYUREAS

Group Art Unit: 1615

Examiner: Unknown

**REQUEST FOR CORRECTION OF PUBLISHED APPLICATION**  
**UNDER 37 C.F.R. § 1.221(b)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

On September 28, 2001, the Office published the above identified Application No. 09/964,751 as Publication No. US-2002-0076425-A1. The published application contains material mistakes that are the fault of the Office. A mistake is material when it affects the public's ability to appreciate the technical disclosure of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. See CFR § 1.221(b).

Attached hereto are copies of pages of the originally filed application and a marked-up copy of the corresponding pages of the published application containing the mistakes. The material mistakes, which are indicated in red ink on the marked-up copy of the published application, are as follows:

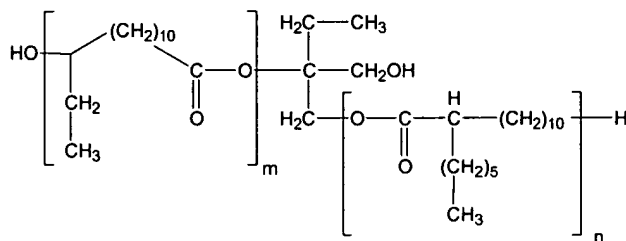
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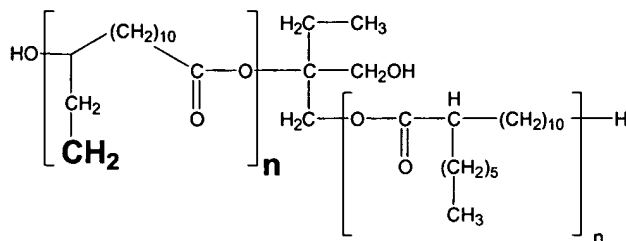


Application No.: 09/964,751  
Attorney Docket No.: 5725.0960-00

1) At page 4, paragraph [0069], the structure should read:



instead of:



(Emphasis added).

This mistake is material because the "CH<sub>2</sub>" (in bold type) and "n" (in bold type) having different meanings from "CH<sub>3</sub>" and "m", thus affecting the public's ability to appreciate the technical disclosure of the patent application publication.

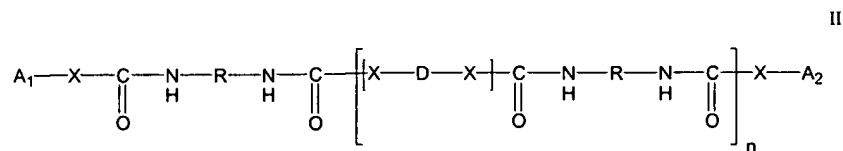
2) At page 8, paragraph [0169], line 2, starting at the word "matte," the rest of the paragraph placed in a new paragraph. Specifically, in the list of properties extending to paragraphs [0169] through paragraph [0173], the properties are each listed separately. The phrase beginning with "matte" is a different list item from the property "glossy and capable of conserving their gloss over a long period of time." Therefore, the incorrect merging of these two list items could affect the public's ability to appreciate the technical disclosure of the patent application publication.

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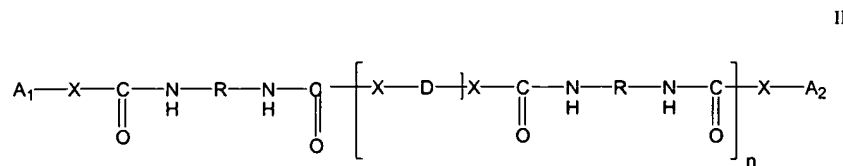
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3) At page 9, paragraphs [0192] and [0193] should be deleted, as they are a reprint of the contents of the table in paragraph [0191]. Therefore, this mistake is material because it could affect the public's ability to appreciate the technical disclosure of the patent application publication.

4) At page 10, claim 5, formula II should read:



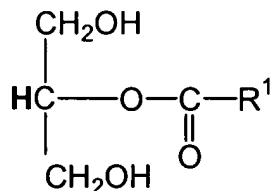
instead of:



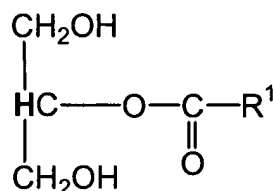
The misplacement of one of the brackets and the deletion of the other could affect the public's ability to appreciate the technical disclosure of the patent application publication, and therefore the mistake is material.

5) At page 9, paragraph [0207], "formula 11" should read "formula II." (emphasis added.) The recitation of an 11 (eleven) instead of a II (two) could affect the public's ability to appreciate the technical disclosure of the patent application publication, since no "formula 11" (eleven) exists in the application. Therefore, the mistake is material.

6) In claim 32, structure (2) should read:

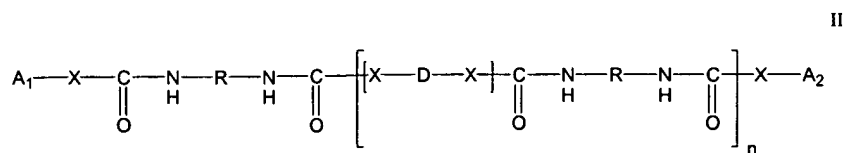


instead of:

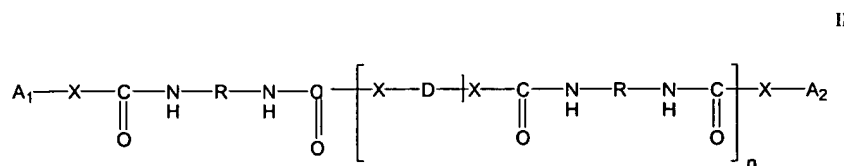


The bonds are incorrectly placed on the "H" (hydrogen atom) and not the "C" (carbon atom). This mistake is material because a chemical structure cannot exist with two bonds on a "H" (hydrogen atom).

7) In claim 75, formula II should read:



instead of:



The misplacement of one of the brackets and the deletion of the other could affect the public's ability to appreciate the technical disclosure of the patent application publication, and therefore the mistake is material.

For at least these reasons, the above mistakes could cause the public to improperly determine the scope of Applicants' provisional rights. Therefore, Applicants request that the Office correct the mistakes in the published application, and forward to Applicants a copy of the corrected published application once it has been corrected.

Applicants believe that no Petition or fee is due in connection with this Request. However, if any Petition or fee is due, please grant the Petition and charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By: Thalia V. Warnement  
Thalia V. Warnement  
Reg. No. 39,064

Date: August 19, 2002

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[015] The inventors' research sought a care and/or treatment and/or make-up composition for the skin and/or integuments and/or the lips which allows at least one of these drawbacks to be overcome.

[016] The inventors have found, surprisingly, that the use of specific polymers, chosen from polyurethanes, polyurethaneureas, and polyureas, which are soluble or dispersible in hydrocarbon-based oils, gives after application deposits having at least one of the following properties:

- do not migrate in the wrinkles and fine lines of the skin or the lips,
- are resistant to at least one of water, sweat, saliva, sebum, and tears,
- are at least one of glossy and gloss conserving over a long period of time, such as in lips and eyelash applications
- are matte if a suitable amount of fillers is added thereto, and may conserve their matte effect over a long period of time, and
- generally provide a prolonged staying power of the make-up.

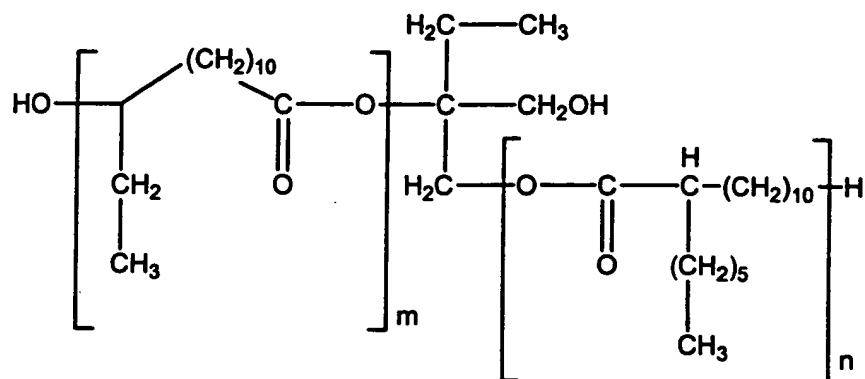
[017] Furthermore, these deposits may show good transfer-resistance properties, i.e., they leave few or no marks on certain supports with which they are placed in contact, such as a glass, a fabric, a cup, a cigarette, or the skin.

[018] These polymers can structure these oils while at the same time conserving their transparency.

[019] Certain embodiments of the invention are compositions comprising at least one continuous liquid fatty phase containing at least one hydrocarbon-based oil and

self-condensation of 12-hydroxystearic acid, followed by reaction with a polyol to consume the residual acid groups.

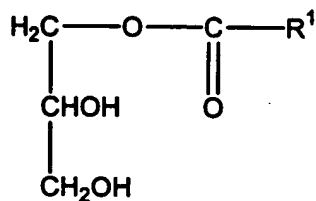
[041] Certain embodiments of the invention make use of oligomer of structure



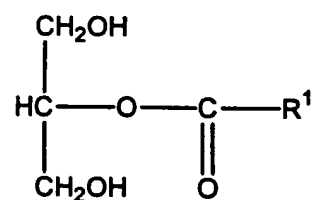
in which the sum  $m+n$  is such that the oligomer has a number-average molecular mass in the region of 2000 and a hydroxyl functionality in the region of 1.8.

[042] Natural and synthetic oils bearing two to three hydroxyl groups may also be used as difunctional derivative H-X-D-X-H in certain embodiments.

[043] In some embodiments of the invention, the at least one oil used will be chosen from those bearing two hydroxyl groups per chain, and in certain additional embodiments, chosen from monoglycerides of structures (1) and (2):



(1)



(2)

[099] Still other embodiments of the invention are the use of a continuous liquid fatty phase containing at least one hydrocarbon-based oil and structured with at least one polymer chosen from polyurethanes, polyurethaneureas, and polyureas, said at least one polymer being soluble or dispersible in said at least one hydrocarbon-based oil, and wherein the at least one polymer comprises in the chain thereof and/or grafted thereto:

- at least two groups chosen from urethane groups and urea groups, and
  - at least one hydrocarbon-based unit chosen from hydrocarbon blocks and grafts, and from blocks and grafts of hydrocarbon-based, long-chain aliphatic polyesters,
- for the manufacture of a physiologically acceptable composition which gives, after application, deposits that are at least one of migration-resistant, resistant to at least one of water, sweat, sebum, saliva, and tears, transfer-resistant, and prolonged staying power.

[0100] Certain embodiments of the invention are illustrated in greater detail in the examples which follow. As used herein, the phrase "at least one" means one or more.

[0101] The amounts are given on a weight basis.

#### EXAMPLE 1

##### Preparation of a block polyurethane

Sovermol® 908 diol dimer from the company Cognis 168 g

Tetrahydrofuran (THF) 250 g

Mixture of:

methylenebis(4-cyclohexyl isocyanate) Desmodur® W



from the company Bayer	39.5 g
tetrahydrofuran (THF)	100 g
Tin 2-ethylhexanoate	0.45 g

[0102] The Sovermol® 908 and the tetrahydrofuran (THF) are introduced into a 1-liter reactor equipped with a central stirrer, a nitrogen inlet, a thermometer, a condenser, and an addition funnel. The mixture is stirred and brought to the reflux temperature of the THF at a temperature of 67°C.

[0103] The mixture of Desmodur® W and THF is then introduced via the funnel, over 30 minutes.

[0104] The mixture is left to react for 3 hours at reflux, and the tin 2-ethylhexanoate is then added.

[0105] This reaction mixture is left for a further 12 hours in the refluxing THF and is then cooled to ambient temperature and precipitated in 5 liters of water.

[0106] A polymer of structure defined by formula I is finally obtained. This polymer is in the form of a white paste, which is dried under vacuum to constant weight.

## EXAMPLE 2

Preparation of a grafted block polymer

methylenebis(4-cyclohexyl isocyanate) Desmodur® W	39.3 g
from the company Bayer	

[0113] The reaction mixture is then precipitated from 5 liters of water.

[0114] A grafted block polymer of formula II is finally obtained, which is in the form of a whitish paste which is dried under vacuum to constant weight.

### EXAMPLE 3

Manufacture of a lipstick according to the invention

Starting materials:

grafted block polymer of formula II	25%
hydrogenated polyisobutene oil (Parleam sold by the company Nippon Oil Fats)	66%
pigments (brown iron oxide + titanium oxide)	9%

Preparation:

[0115] The polymer of formula II is dissolved in the Parleam oil at 100°C, and the pigments are then added. The mixture is then mixed using a deflocculating turbomixer (Ragnerie) and then poured into lipstick moulds.

[0116] A stick of lipstick with a hardness of 400 g measured using a TA-XTZ analyser at 20°C is obtained.

[0117] The lipstick obtained is glossy, migration-resistant, has good staying power over time and is resistant to water and saliva.

**WHAT IS CLAIMED IS:**

1. A cosmetic composition comprising at least one continuous liquid fatty phase containing at least one hydrocarbon-based oil and structured with at least one polymer chosen from polyurethanes, polyurethaneureas, and polyureas, said at least one polymer being soluble or dispersible in said at least one hydrocarbon-based oil, and wherein said at least one polymer comprises in the chain thereof and/or grafted thereto:

- at least two groups chosen from urethane groups and urea groups, and
- at least one hydrocarbon-based unit chosen from hydrocarbon blocks and grafts, and from blocks and grafts of hydrocarbon-based, long-chain aliphatic polyesters.

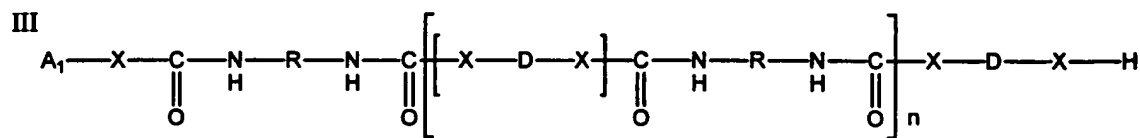
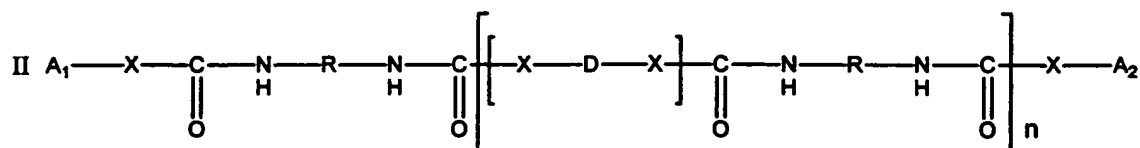
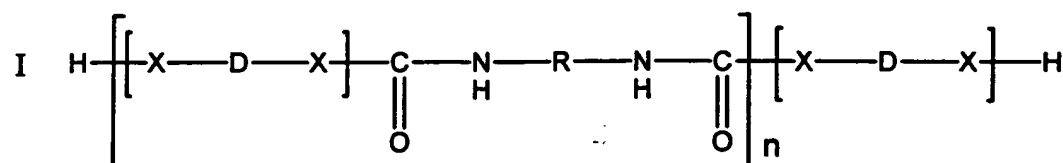
2. A cosmetic composition according to Claim 1, wherein at least one polymer has a number-average molecular mass ranging from 1000 to 1,000,000 as measured at the peak height of steric exclusion chromatography (GPC).

3. A cosmetic composition according to Claim 2, wherein at least one polymer has a number-average molecular mass ranging from 2000 to 500,000, as measured at the peak height of steric exclusion chromatography (GPC).

4. A cosmetic composition according to Claim 2, wherein at least one polymer has a number-average molecular mass ranging from 3000 to 250,000, as measured at the peak height of steric exclusion chromatography (GPC).

5. A cosmetic composition comprising at least one continuous liquid fatty phase containing at least one hydrocarbon-based oil and structured with at least one polymer

chosen from polyurethanes, polyurethaneureas, and polyureas, said at least one polymer being soluble or dispersible in said at least one hydrocarbon-based oil, and wherein said at least one polymer is chosen from polymers of formulae I, II, and III



in which:

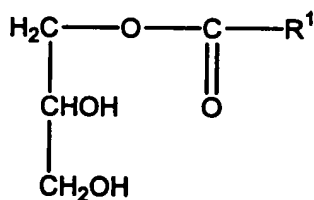
- $n$  denotes an integer ranging from 1 to 10,000,
- $X$ , which may be identical or different, is chosen from  $-\text{O}-$ ,  $-\text{NH}-$ , and combinations thereof,
- $R$ , which may be identical or different, is a divalent radical chosen from alkylene, cycloalkylene and aromatic radicals, and combinations thereof, which are optionally functionalized
- $A_1$  and  $A_2$ , which may be identical or different, are chosen from saturated and unsaturated, linear, branched, and cyclic monovalent hydrocarbon-based radicals, containing from 1 to 80 carbon atoms,

29. A cosmetic composition according to Claim 12, wherein said difunctional derivative H-X-D-X-H is chosen from long-chain-alkyl branched polyesters comprising at least two reactive groups.

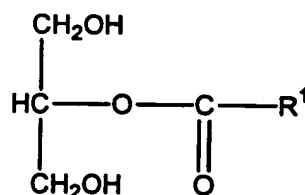
30. A cosmetic composition according to Claim 12, wherein said difunctional derivative H-X-D-X-H is chosen from at least one natural and synthetic oil having two to three hydroxyl groups.

31. A cosmetic composition according to Claim 30, wherein said at least one natural and synthetic oil is chosen from natural and synthetic oils bearing two hydroxyl groups per chain.

32. A cosmetic composition according to Claim 31, wherein said at least one natural and synthetic oil is chosen from monoglycerides of structures (1) and (2)



(1)



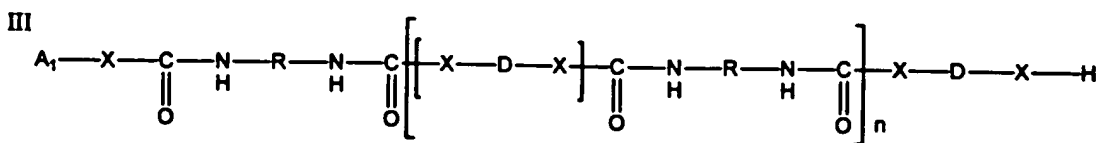
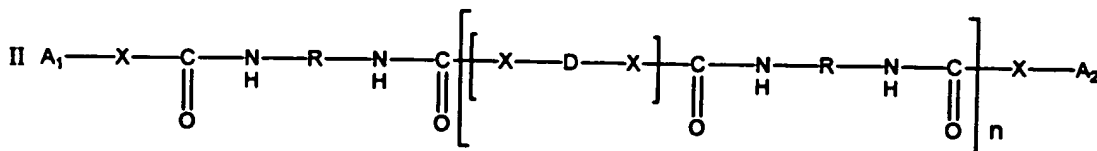
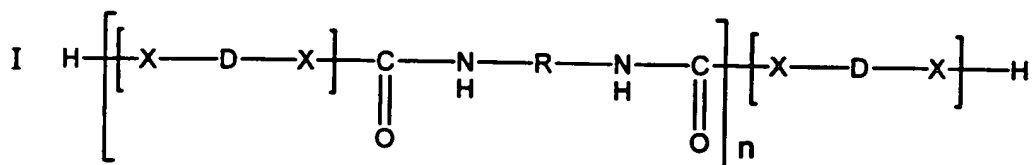
(2)

R<sup>1</sup> being chosen from linear and branched C<sub>8</sub> to C<sub>30</sub> alkyl chains.

33. A cosmetic composition according to Claim 30, wherein said at least one natural and synthetic oil is chosen from natural and synthetic oils bearing three hydroxyl groups per chain.

- at least two groups chosen from urethane groups and urea groups, and
- at least one hydrocarbon-based unit chosen from hydrocarbon blocks and grafts, and from blocks and grafts of hydrocarbon-based, long-chain aliphatic polyesters.

75. A method of structuring a fatty phase in a cosmetic composition comprising at least one continuous liquid fatty phase containing at least one hydrocarbon-based oil comprising contacting said at least one continuous liquid fatty phase with at least one polymer chosen from polyurethanes, polyurethaneureas, and polyureas, said at least one polymer being soluble or dispersible in said at least one hydrocarbon-based oil, and wherein said at least one polymer is chosen from polymers of formulae I, II, and III:



**in which:**

- **n** denotes an integer ranging from 1 to 10,000,
- **X**, which may be identical or different, is chosen from, -O-, -NH-, and combinations thereof.